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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil Gas and Mining

JOHN R. BAZA  
Division Director

July 31, 2007

CERTIFIED RETURN RECEIPT  
7005 2570 0000 4801 9899

Douglas Peterson  
Jack B. Parson Companies  
P.O. Box 3429  
Ogden, Utah 84409

Subject: Proposed Assessment for Cessation Order No. MC-07-01-5(1), Jack Parson Companies, Hot Springs Mine (S/003/0073), Box Elder County, Utah

Dear Mr. Peterson:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced Cessation Order. The Cessation Order was issued by Division Inspector, Lynn Kunzler, on June 19, 2007. Rule R647-7-103 et. seq. has been utilized to formulate the proposed penalty for the violation as follows:

- MC-07-01-5— Violation 1 of 1      \$330

The enclosed worksheet specifically outlines how the penalty was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this Cessation Order has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R647-7-106, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of the Violation, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter.

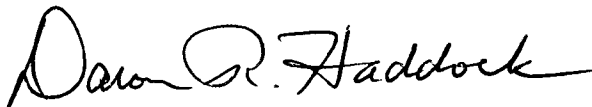


This conference will be conducted by the Division Director, Associate Director or assigned Conference Officer. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.

2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

**If a timely request for review is not made, the fact of the violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment.** Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,



Daron R. Haddock  
Assessment Officer

Enclosure: Worksheets

P:\GROUPS\MINERALS\WP\M003-BoxElder\S0030073-HotSprings\non-compliance\MC-07-01-05\AssessmentLetterMN070105.doc

**WORKSHEET FOR ASSESSMENT OF PENALTIES**  
**DIVISION OF OIL, GAS & MINING**  
**Minerals Regulatory Program**

COMPANY / MINE Jack Parson Companies/ Hot Springs PERMIT M/003/0073  
NOV / CO # MC-07-01-05 VIOLATION 1 of 1

ASSESSMENT DATE July 31, 2007

ASSESSMENT OFFICER Daron R. Haddock

**I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)**

- A. Are there previous violations, which are not pending or vacated, which fall within three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>None</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

**TOTAL HISTORY POINTS 0**

**II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)**

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event  
(assign points according to A or B)

**A. EVENT VIOLATION (Max 45 pts.)**

1. What is the event which the violated standard was designed to prevent?  
***Conducting Activities without appropriate approvals.***
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *An Operator is required to obtain a permit from the Division of Oil Gas and Mining prior to conducting mining operations. While the Operator has a permit for a small mine, which allowed disturbance of a certain area, the operation has expanded onto lands which are not covered by the reclamation bond nor is there authorization to mine (approximately 4 acres). Disturbance has actually occurred.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *The inspector stated that the operator has disturbed approximately 4 acres of land that had not been approved for disturbance. The damage was the loss of vegetation and possibly soil resources on the area disturbed. Further discussion with the inspector revealed that the damage is probably temporary. While much of the soil and vegetation have been disturbed, the site could still be reclaimed. While the damage extends over the 4 acres, it probably does not leave the site. Damage is assessed in the lower 1/3 of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement?                       
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS                     

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\*

TOTAL SERIOUSNESS POINTS (A or B) 28

**III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)**

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 5

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *The inspector indicated that the Operator should have kept better control over the contract miner that was working at the site. Because the boundaries of the permit were not well defined the contract miner exceeded the disturbance that could be allowed under the small mine permit. A large mine permit should have been applied for and acquired before expanding the site. A prudent operator would understand the need to keep within the approved boundaries and provide a revised NOI and bond prior to disturbing additional area. The Operator was negligent in this regard, and 5 negligence points are assigned.*

**IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)**

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

\*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- |   |   |             |
|---|---|-------------|
| X | Rapid Compliance  | -11 to -20* |
|   | (Permittee used diligence to abate the violation)   |             |
| X | Normal Compliance   | -1 to -10*  |
|   | (Operator complied within the abatement period required)  |             |
| X | Extended Compliance   | 0           |
|   | (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete) |             |
|   | (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)   |             |

EASY OR DIFFICULT ABATEMENT? Difficult (plans required)

ASSIGN GOOD FAITH POINTS -18

PROVIDE AN EXPLANATION OF POINTS:

\*\*\* *The abatement required the submission of a bond within 30 days and plans within 60 days. The Operator actually provided the new notice and reclamation surety within 3 days. Deficiencies in the notice were rapidly addressed. Eighteen good faith points are awarded.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # MC-07-01-5(1)

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>28</u>
III.	TOTAL NEGLIGENCE POINTS	<u>5</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-18</u>
	TOTAL ASSESSED POINTS	<u>15</u>

TOTAL ASSESSED FINE \$330

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Proposed  
Assessment  
MC-07-01-5(1)  
Postmark Here  
\$ 330

Douglas Peterson  
P.O. Box 3429  
Ogden, Utah 84409

7005 2570 0000 4801 9899

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